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TN REGULATORY AUTHORITY
DOCKET ROOM

January 31, 2003

The Honorable Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

RE: In re: Tariff of Citizens Telecommunications Company of Tennessee L.L.C.
to Offer Special Promotions Without Advance Notice and Approval by the
TRA.

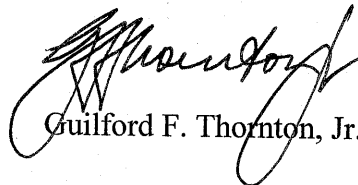
Docket No. ~~03-00012~~ 03-00061

Dear Chairman Kyle:

I am enclosing with this letter Citizens Telecommunications Company's response to the Complaint and Petition to Intervene previously filed by the Consumer Advocate in this matter. Copies have been served on counsel for all parties in this matter.

Should you have any questions or require anything further at this time, please do not hesitate to contact me.

Sincerely,


Guilford F. Thornton, Jr.

cc: Mike Swatts
Gregg Sayre

**BEFORE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: TARIFF OF CITIZENS)	
TELECOMMUNICATIONS COMPANY)	DOCKET NO. 03-00012
OF TENNESSEE TO OFFER SPECIAL)	
PROMOTIONS WITHOUT ADVANCE)	
NOTICE AND APPROVAL BY THE TRA)	

**CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE'S
RESPONSE TO COMPLAINT AND PETITION TO INTERVENE**

Citizens Telecommunications Company of Tennessee L.L.C. ("Citizens") files this Response to the Complaint and Petition to Intervene (the "Complaint") previously filed by the Consumer Advocate and Protection Division of the Office of Attorney General ("Consumer Advocate"). Citizens objects to the Consumer Advocate's Complaint and requests that the Authority dismiss the Complaint without convening a contested case.

In support of this request and in response to the Complaint, Citizens states as follows:

1. Citizens is an Incumbent Local Exchange Telephone Company ("ILEC"), as defined in T.C.A. § 65-4-101, serving White County/Sparta, Warren County/McMinnville, Weakley County, Putnam County, and Cumberland County exchanges.

2. Citizens filed a tariff revision with the Tennessee Regulatory Authority (the "Authority") on January 2, 2003 (the "Citizens Tariff Revision"). At the request of

Authority staff, Citizens amended the filing by letter to the Authority, dated January 14, 2003. A copy of Citizens January 2, 2003 and January 14, 2003 filings, including the Citizens Tariff Revision, are attached hereto as collective Exhibit A.

3. First Revised Page 51 of the Citizens Tariff Revision states as follows:

The Company may offer special promotions of new or existing services or products upon 1 day notice to the Authority. Subject to the availability of products, services and facilities, promotions will be available on a completely nondiscriminatory basis to all subscribers meeting the eligibility criteria for each promotion within the classification of service and area for which the promotion is available. Each subscriber meeting the eligibility criteria will have an equal opportunity for participation. Notification will include the time period during which the promotion will be conducted as well as the terms and conditions of the promotion.

Citizens Tariff Revision, Section S.28, Special Promotions, First Revised Page 51.

4. On or about October 1, 1999, BellSouth Telecommunications, Inc. ("BellSouth") submitted a tariff revision (the "BellSouth Tariff Revision ") that became effective November 1, 1999 that provides as follows:

The Company may offer special promotions of new or existing services or products upon 1 day notice to the Authority. Subject to the availability of products, services and facilities, promotions will be available on a completely nondiscriminatory basis to all subscribers meeting the eligibility criteria for each promotion within the classification of service and area for which the promotion is available. Each subscriber meeting the eligibility criteria will have an equal opportunity for participation. Notification will include the time period during which the promotion will be conducted as well as the terms and conditions of the promotion.

BellSouth Tariff Revision, Section A.2.10, Special Promotions, Seventh Revised Page 26 (copy attached as Exhibit B).

5. Citizens modified the Citizens Tariff Revision, as originally filed on January 2, 2003, at the request of the Authority's staff so that the Citizens'

Tariff Revision would mirror the acceptable language in the BellSouth Tariff Revision.

6. The Citizens Tariff Revision also follows several rulings by the Authority in which the Authority has permitted Citizens to offer special promotions to its business customers in McMinnville and Sparta, Tennessee where it faces stiff competition from Ben Lomand Communications, Inc. ("BLC") a wholly owned subsidiary of Ben Lomand Rural Telephone Cooperative ("Ben Lomand"), which is largely, if not completely, unregulated by the Authority. These rulings are as follows:

a. In TRA Docket Number 00-00965, the Authority approved a tariff filing by Citizens that established a lower Automatic Access Line ("AAL") rate for business customers in McMinnville and Sparta than Citizens charges customers in its other Tennessee exchanges.

b. In TRA Docket Number 00-00963, the Authority also approved a special promotion that waived installation charges for customers specifically in McMinnville and Sparta.

c. In TRA Docket Number 02-00088, Citizens filed with the Authority a written notification requesting the approval of a promotion to waive non-recurring charges associated with basic local service for customers in the McMinnville and Sparta exchanges, which mirrored the previous promotions offered to those customers and approved by the TRA. This request was opposed by the Consumer Advocate, who alleged that the promotion amounted to unjust discrimination between Citizens' customers. The Authority dismissed the

Consumer Advocate's complaint, by order dated April 24, 2002. (Attached hereto as Exhibit B.)

7. The Attorney General opposes Citizens Tariff Revision based on its assertion that it could result in unjust discrimination and/or undue and unreasonable preferences to certain consumers notwithstanding the previous rulings of the Authority and the approval of the exact same language in the BellSouth Tariff Revision.

LEGAL ANALYSIS

8. Pursuant to TRA Rule 1220-4-1-.04, "tariffs, rate schedules or supplements thereto. . . must be filed with the Commission at least thirty (30) days before the effective date of such changes, unless upon application and for good cause shown the Commission may waive the thirty day time limit or portion thereof." TRA Rule 1220-4-1-.04 (emphasis added).

7. As stated in Citizens' January 2, 2003 letter to the Authority, filed with the Citizens Tariff Revision, Citizens seeks the waiver because it faces fierce competition in several of its exchanges. While Citizens continues to seek approval from the Authority to offer special promotions, its competitors do not. The 30-day approval process not only delays Citizens' ability to launch special promotions, but it also provides Citizens' competition with advance notice of the details of its promotional plans. Citizens is seeking the same flexibility to offer special promotions as its competitors currently enjoy.

8. In this case the Complaint should be dismissed because: (a) the language in the Citizens Tariff Revision is the same as the language in the BellSouth Tariff Revision, which has been approved by the Authority; and (b) the Authority has already

held that Citizens can offer incentives to business customers in its McMinnville and Sparta exchanges to meet the competition in that area, and for those same reasons it is clear that the Citizens Tariff Revision is reasonable and not unjustly or unduly preferential or discriminatory.

A. The Citizens Tariff Revision Is The Same As The BellSouth Tariff Revision.

9. The Citizens Tariff Revision, as currently proposed, reflects the comments of the Authority's staff to the revision proposed on January 2, 2003. The staff suggested that Citizens employ the language in the BellSouth Tariff Revision. As is evidenced by the January 14, 2003 filing, the changes requested by the Authority's staff were implemented. Thus, if this language is acceptable in BellSouth's Tariff Revision, it should be acceptable in Citizens' Tariff Revision as well.

B. The TRA Has Already Correctly Found On Three Separate Occasions That Citizens Can Offer Incentives In Its McMinnville And Sparta Exchanges To Meet Competition.

10. The central objection raised by the Attorney General is that the Citizens Tariff Revision could allow Citizens to unreasonably prefer or discriminate against certain consumers. In that regard it cites the following statutory authority:

a. T.C.A. § 65-4-122(a), which forbids a public utility from charging or receiving from different persons different amounts for the same services "under substantially like circumstances and conditions . . ." (emphasis added);

b. T.C.A. § 65-4-122(c), which forbids a public utility from giving an "undue or unreasonable preference" to a customer (emphasis added).

c. T.C.A. § 65-4-123, which states that the regulation of telecommunication service providers shall protect the interests of consumers without unreasonable prejudice or disadvantage to any telecommunication service provider.”

11. Over the objections of the Consumer Advocate, the Authority has already held by its Order dated April 24, 2002 (Docket Number 02-00088) that Citizens can offer promotions to its business customers in McMinnville and Sparta that are not available to its residential customers in those exchanges or customers in other exchanges in this state. In so doing, the Authority held as follows: “Citizens is experiencing stiff competition in its McMinnville and Sparta exchanges, while facing minimal competition in its exchanges located in Weakley, Putnam and Cumberland counties. Accordingly, the Authority finds the competitive pressure prevalent in the McMinnville and Sparta exchanges is sufficient justification for limiting the offer to these two exchanges.”

12. Likewise, prior to its April 24, 2002 Order, the Authority approved other special promotions Citizens offered to customers in the McMinnville and Sparta exchanges (Docket Numbers 00-000963 and 00-00965).

13. The Authority’s rulings are consistent with T.C.A. §65-4-123, which sets forth the pro-competitive policy of the State to “foster the development of an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications services markets.” T.C.A. § 65-4-123 (emphasis added). The regulation of service providers such as Citizens “shall protect the interests of consumers without any unreasonable prejudice or disadvantage to any telecommunications service provider.” Id. In that regard Citizens must be allowed to

compete with BLC and other CLECS by utilizing the tools available to it. Otherwise, Citizens will be unreasonably prejudiced. As it stands now with respect to BLC, Citizens is competing with an affiliate of an entrenched, well-funded telephone cooperative, which is relatively unregulated.

14. With regard to T.C.A. § 65-4-122(a) and (c), cited by the Consumer Advocate, those code sections prohibit different treatment of persons “under substantially like circumstances and conditions” and “undue or unreasonable” preferences, respectively. The Authority recognized that conditions are substantially different in McMinnville and Sparta than they are in the other exchanges served by Citizens. In McMinnville and Sparta there is substantial competition from a CLEC, which, under favorable regulatory conditions, is winning customers away from Citizens on a daily basis. Competitive conditions are significantly different in Weakley, Putnam and Cumberland Counties. Therefore, the preferences to businesses in McMinnville and Sparta are not undue or unreasonable.

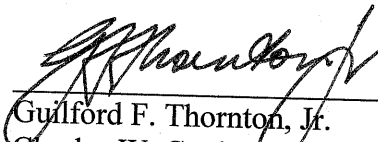
CONCLUSION

For the reasons stated herein, the Authority should approve the Citizens Tariff Revision and dismiss the Complaint filed by the Attorney General.

WHEREFORE, Citizens requests that the Authority:

- A. Dismiss the Complaint filed by the Attorney General;
- B. Authorize the Tariff filed by Citizens; and
- C. Award Citizens any such relief as is appropriate.

Respectfully submitted,



Guilford F. Thornton, Jr.
Charles W. Cook, III
STOKES BARTHOLOMEW
EVANS & PETREE, P.A.
424 Church Street, Suite 2800
Nashville, Tennessee 37219
(615) 259-1450

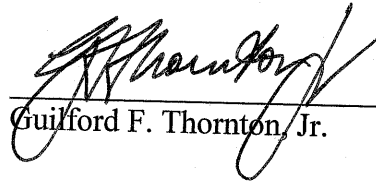
*Attorneys for Citizens Telecommunications
Company of Tennessee*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by facsimile transmission and by first class mail postage prepaid this the 31st day of January, 2003 to:

Timothy C. Phillips
Shilina B. Chatterjee
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202

Richard Collier
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238



Guilford F. Thornton, Jr.



EXHIBIT A

300 Bland Street
P.O. Box 770
Bluefield, WV 24701

January 2, 2003

Mr. David Foster
Regulatory Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Dear David:

Enclosed are an original and three copies of the following tariff pages for review and approval.

Citizens Telecommunications Company of Tennessee, LLC
GENERAL CUSTOMER SERVICES TARIFF

Section 2 – First Revised Page 1
Section 2 – First Revised Page 4
Section 2 – First Revised Page 5
Section 2 – Second Revised Page 6
Section 2 – First Revised Page 51

The purpose of this filing is to establish tariff language that will allow Frontier the flexibility to offer special promotions without advance notice or approval. Currently special promotions require 30 days advance notice and approval by the TRA. In November 2001, Frontier made a similar tariff filing and withdrew the filing in December 2001, at Staff's request. The withdrawal was made with the understanding special promotions in competitive situations would receive expedited approval. This accelerated approval process has not materialized.

Frontier faces fierce competition in several of its exchanges. Frontier continues to seek TRA approval prior to offering special promotions but its competitors do not. The 30-day approval process not only delays our ability to launch special promotions, it also provides our competition with advance notice of the details of our promotional plans. Frontier is seeking the same flexibility to offer special promotions as its competitors currently enjoy.

Frontier has been successful in gaining relaxed regulation of special promotions in other jurisdictions as regulatory agencies demonstrate their understanding of the unfair disadvantage the review and approval process poses in competitive situations. You will note that the proposed tariff language indicates that the company will provide the TRA with the details of any special promotion upon informal request. Frontier is not seeking to usurp the TRA's authority, we are simply requesting fair treatment.

An additional copy of this letter is also enclosed. Please date stamp and return it in the enclosed stamped, self-addressed envelope.

If you have any questions relative to this filing, please call John Martin at (304) 325-1526 or myself at (304) 325-1216.

Sincerely,



J. Michael Swatts
State Government Affairs Director

Enclosure

C: Timothy Phillips, Esq.
Gif Thornton
Gregg Sayre

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

First Revised Page 1

S2. General Regulations

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GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

First Revised Page 4

S2. General Regulations (Continued)

S2.1 Application

S2.1.1 General Applications

The regulations specified herein are applicable to all communication services offered in this tariff by Citizens Telecommunications Company of Tennessee, hereinafter referred to as the Company. Additional regulations, where applicable, pertaining to specific service offerings accompany such offerings in various sections of this tariff.

(D)

(D)

Issued: January 3, 2003

Assistant Vice President
Regulatory and Public Affairs
Citizens Telecommunications Company
Bluefield, West Virginia

Continued
Effective: February 3, 2003

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

First Revised Page 5

(D)

(D)

(D)

Issued: January 3, 2003

Assistant Vice President
Regulatory and Public Affairs
Citizens Telecommunications Company
Bluefield, West Virginia

Continued
Effective: February 3, 2003

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

Second Revised Page 6

S2. General Regulations (Continued)

S2.2 Limitations and Use of Service

S2.2.1 Use of Customer's Service

- (A) Telephone equipment and facilities are furnished for the use of the customer employees, agents or representatives of the customer or members of the customer's domestic establishment except as the use of the service may be extended, in addition to other service which may be separately ordered, patrons of hospitals or of hotels, members of clubs, students living in quarters furnished by schools, colleges or universities, to persons temporarily subleasing a customer's residential premises, or to tenants living in retirement complexes, or to customers of access line service for customer provided public telephones.

(D)

(D)

Issued: January 3, 2003

Assistant Vice President
Regulatory and Public Affairs
Citizens Telecommunications Company
Bluefield, West Virginia

Continued
Effective: February 3, 2003

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

First Revised Page 51

S2. General Regulations (Continued)

S2.8 Special Promotions

- (C) The company may, from time to time and in a nondiscriminatory manner, offer specifically designated products and/or services at reduced rates and/or charges, or for no rate and/or charge, for promotional, market research, training and/or experimental purposes. Each individual offering shall be of ninety calendar days or less in duration. Such offerings may be applicable to monthly recurring charges, non-recurring charges or gifts. The promotion may be limited to specific geographic areas and may also be limited to specific customer types (e.g., business or residential) and/or service classifications/designations (e.g., local or toll).

These offerings may be made without notice to the Commission, provided that, upon informal request by the Commission, the company shall timely provide details, as appropriate, regarding any such offering for which information is requested.

(D)

(D)

(N)

(N)



300 Bland Street
P.O. Box 770
Bluefield, WV 24701

January 14, 2003

Mr. David Foster
Regulatory Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Dear David:

RE: 2003-12

Enclosed are an original and three copies of the following tariff page.

Citizens Telecommunications Company of Tennessee, LLC
GENERAL CUSTOMER SERVICES TARIFF

Section 2 – First Revised Page 51

Please replace the existing First Revised Page 5 in the above referenced filing with this amended First Revised Page 5. We have made the changes as requested by staff (Teferi Mergo).

If you have any questions relative to this filing, please call John Martin at (304) 325-1526 or myself at (304) 325-1216.

Sincerely,

J. Michael Swatts
State Government Affairs Director

Enclosure

C: Timothy Phillips, Esq.
Gif Thornton
Gregg Sayre

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

First Revised Page 51

S2. General Regulations (Continued)

S2.8 Special Promotions

- (C) The Company may offer special promotions of new or existing services or products upon 1 day notice to the Authority Subject to the availability of products, services and facilities, promotions will be available on a completely nondiscriminatory basis to all subscribers meeting the eligibility criteria for each promotion within the classification of service and area for which the promotion is available. Each subscriber meeting the eligibility criteria will have an equal opportunity for participation. Notification will include the time period during which the promotion will be conducted as well as the terms and conditions of the promotion.

(D)

(D)

(N)

(N)

Issued: January 3, 2003

Assistant Vice President
Regulatory and Public Affairs
Citizens Telecommunications Company
Bluefield, West Virginia

Continued

Effective: February 3, 2003

EXHIBIT B

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 24, 2002

IN RE:

TARIFF OF CITIZENS TELECOMMUNICATIONS
COMPANY OF TENNESSEE REQUESTING
APPROVAL OF A PROMOTION FOR CUSTOMERS
IN MCMINNVILLE AND SPARTA EXCHANGES

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DOCKET NO.
02-00088

ORDER APPROVING PROMOTIONAL TARIFF
AND DENYING COMPLAINT AND PETITION TO INTERVENE

This matter came before the Tennessee Regulatory Authority ("Authority") at the regularly scheduled Authority Conference held on February 5, 2002, for consideration of the tariff of Citizens Telecommunications Company of Tennessee ("Citizens") seeking to offer its Residential "Win-Back" Promotion (the "Promotion") in the McMinnville and Sparta exchanges. Citizens filed the Promotion on January 23, 2002, with a proposed effective date of February 6, 2002.

On January 29, 2002, the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") filed a *Complaint and Petition to Intervene* ("Petition"), requesting the Authority deny Citizens' Promotion or in the alternative convene a contested case for the purpose of evaluating the issues in this matter. In its Petition, the Consumer Advocate asserted that the Promotion would result in unjust discrimination, undue and unreasonable preferences and would be unreasonably prejudicial. On February 4, 2002, Citizens filed its response which stated that this Promotion is Citizens' attempt to compete by utilizing a

vehicle traditionally approved by the Authority and, therefore, the Authority should deny the Consumer Advocate's Petition and approve the Promotion.

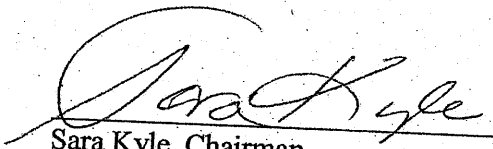
After careful consideration of the record, including the Petition as well as the Promotion as modified, the Authority made the following findings and conclusions:

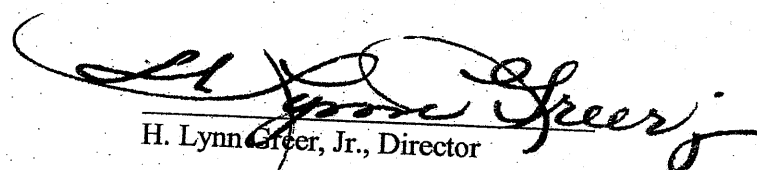
1. The Promotion extends a twenty dollar (\$20.00) credit to any existing Citizens customer who refers an existing competing local exchange carrier customer to Citizens, provided the referred customer maintains local service for one (1) month.
2. "Win-back" customers who subscribe to Citizens' basic local residential service will receive a credit of fifty dollars (\$50.00) applied to each access line and spread over six (6) months at a rate of \$8.33 credit per month. In addition, such a customer will receive twenty dollars (\$20.00) per month in free features for up to three (3) months. If the customer subscribes to Caller ID, Citizens Select or Select Plus, they will receive a free Caller ID box. All installation and activation fees associated with this promotion will be waived.
3. On January 30, 2002, Citizens modified the promotion to include any "New Customer" as well as any "Win-back" customer.
4. Based upon information on file with the Authority, Citizens is experiencing stiff competition in its McMinnville and Sparta exchanges, while facing minimal competition in its exchanges located in Weakley, Putnam and Cumberland counties. Accordingly, the Authority finds the competitive pressure prevalent in the McMinnville and Sparta exchanges is sufficient justification for limiting the offer to these two exchanges. Furthermore, the Authority finds that Citizens' request to respond quickly to its competition warrants a waiver of the thirty (30) day requirement for tariff changes as set forth in TRA Rule 1220-4-1-.04.

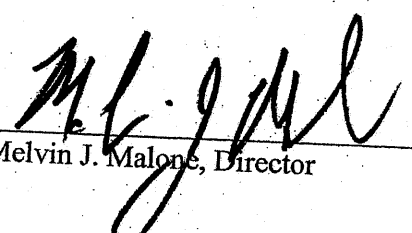
Due to the foregoing findings and conclusions, the Authority determined that a contested case is not warranted relative to the Promotion as modified on January 30, 2002. Therefore, the Directors voted unanimously to deny the Consumer Advocate's Petition, waive the thirty (30) day notice requirement and approve Citizens' Promotion.

IT IS THEREFORE ORDERED THAT:

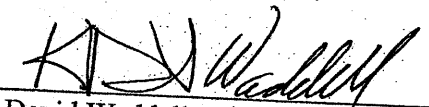
1. The *Complaint and Petition to Intervene* of the Consumer Advocate and Protection Division of the Office of the Attorney General is denied; and
2. The tariff of Citizens Telecommunications Company of Tennessee seeking to offer its Residential "Win-Back" Promotion in the McMinnville and Sparta exchanges is approved, effective February 6, 2002.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:

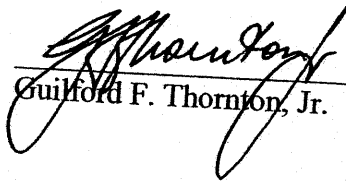

K. David Waddell, Executive Secretary

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on the following individuals via U.S. mail, postage prepaid, this 4th day of December, 2002.

H. LaDon Baltimore
Farrar & Bates, L.L.P.
211 Seventh Avenue North
Suite 420
Nashville, TN 37219

Richard Collier, General Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238



Guilford F. Thornton, Jr.